

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

TERRY JAMES CHIDESTER, JR.,

Plaintiff,

v.

CIVIL ACTION NO. 5:06-cv-00173

GEORGE MCCORMICK, et al.,

Defendants.

MEMORANDUM OPINION AND DISMISSAL ORDER

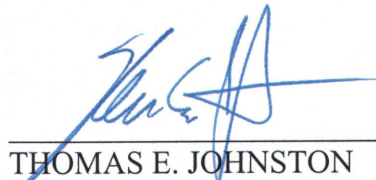
Pending before the Court are Plaintiff's Application to Proceed in Forma Pauperis [Docket 15] and Motion to Withdraw Complaint [Docket 17]. By Standing Order entered on July 21, 2004, and filed in this case on March 8, 2006, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (PF&R). Magistrate Judge VanDervort filed his PF&R [Docket 18] on August 22, 2008, recommending that this Court **GRANT** Plaintiff's motion to withdraw his complaint and **DENY AS MOOT** his application to proceed in forma pauperis.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United*

States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R were due in this case by September 9, 2008. To date, no objections have been filed.

Accordingly the Court **ADOPTS** the PF&R [Docket 18] in its entirety, **GRANTS** Plaintiff’s Motion to Withdraw Complaint [Docket 17], and **DENIES AS MOOT** Plaintiff’s Application to Proceed in Forma Pauperis [Docket 15]. Plaintiff’s Complaint [Docket 1] is accordingly **DISMISSED WITHOUT PREJUDICE** and the Clerk is **DIRECTED** to remove the case from the Court’s docket and mail a copy of this Memorandum Opinion and Dismissal Order to Plaintiff pro se, counsel of record, and any unrepresented party.

ENTER: September 11, 2008



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE